

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEW HAMPSHIRE

Yudiel Herrera Milanes

v.

Civil No. 18-cv-313-PB

Strafford County Department of Corrections  
Superintendent Christopher Brackett et al.<sup>1</sup>

O R D E R

Before the court is Yudiel Herrera Milanes's petition for a writ of habeas corpus (Doc. No. 1), filed under 28 U.S.C. § 2241. Petitioner is presently in the custody of U.S. Immigration and Customs Enforcement ("ICE") at the Strafford County Department of Corrections ("SCDC"). The petition is before the court to determine whether it is facially valid and may proceed. See Rule 4 of the Rules Governing Section 2254 Cases ("§ 2254 Rules"); see also § 2254 Rule 1(b) (authorizing court to apply § 2254 Rules to § 2241 petitions); LR 4.3(d)(4).

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<sup>1</sup>The respondents in this action are Strafford County Department of Corrections Superintendent Christopher Brackett, U.S. Attorney General Jefferson Sessions III, U.S. Department of Homeland Security Secretary Kirstjen M. Nielsen, Immigration and Customs Enforcement ("ICE") Boston Field Officer Director Christopher Cronen, and ICE Sub-Field Office Assistant Director Todd Thurlow.

**Standard**

In undertaking § 2254 Rule 4 preliminary review, this court decides whether the petition states facially valid claims. The court may dismiss any petition that appears legally insufficient on its face. See McFarland v. Scott, 512 U.S. 849, 856 (1994). In conducting this review, the court construes Petitioner's pro se petition liberally. See Erickson v. Pardus, 551 U.S. 89, 94 (2007) (per curiam).

**Service**

The petition (Doc. No. 1) includes facially valid claims that warrant service. Petitioner's counsel is directed to prepare a summons for the SCDC Superintendent Christopher Brackett and to file that summons.

Upon receipt of Brackett's summons, the clerk's office is directed to issue the summonses (Doc. No. 2) petitioner has prepared for: Brackett and for each of the federal respondents (U.S. Attorney General Jefferson Sessions, U.S. Department of Homeland Security Secretary Kirstjen Nielson, ICE Boston Field Office Director Christopher Cronen, and ICE Sub-Field Office Assistant Director Todd Thurlow).

Service of the summonses upon respondents shall be effected by counsel for petitioner as to the federal respondents, pursuant to Fed. R. Civ. P. 4(i)(2), and as to Brackett,

pursuant to Fed. R. Civ. P. 4(j)(2). A copy of this Order and the petition (Doc. No. 1) shall be enclosed with each summons.

The federal respondents shall file an answer or motion to dismiss within thirty days of service on the United States Attorney. Respondent Brackett shall file an answer or motion to dismiss within thirty days of service upon Brackett. The answers shall comply with § 2254 Rule 5, as appropriate in this case. The case will proceed in accordance with LR 7.4.

Respondents shall provide this court with at least 48 hours advance notice of any scheduled removal of petitioner, or scheduled transfer of petitioner out of the jurisdiction.

SO ORDERED.



Andrea K. Johnstone  
United States Magistrate Judge

April 25, 2018

cc: SangYeob Kim, Esq.